



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BY FAX (202-536-1701) and FIRST CLASS MAIL

DEC 07 2012

Mark H. Tuohey, Esq.
Brown Rudnick
601 Thirteenth Street, NW
Suite 600
Washington, DC 20005

RE: MUR 5758
Pierce O'Donnell

Dear Mr. Tuohey:

On December 5, 2012, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Camilla Jackson Jones, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Mark D. Shonkwiler
Assistant General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Pierce O'Donnell

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MUR 5758

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint. An investigation was conducted, and the Federal Election Commission ("Commission") found probable cause to believe that Pierce O'Donnell ("Respondent") knowingly and willfully violated 2 U.S.C. § 441f.

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:

Background

1. Pierce O'Donnell is a United States citizen residing in Los Angeles, California. O'Donnell is the founding partner and Chairman of the law firm O'Donnell & Mortimer LLP f/k/a O'Donnell Shaeffer Mortimer LLP in Los Angeles, California.¹

2. Dolores Valdez, Else Latinovic, Hilda Escobar, Bert Rodriguez, Harry Silberman, and Elizabeth Owen are or were non-lawyer employees of O'Donnell & Mortimer

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LLP at the time of the events in this matter. Dolores Valdez was O'Donnell's secretary and personal assistant. Else Latinovic was an office administrator. Hilda Escobar was a secretary. Bert Rodriguez was a facility manager. Harry Silberman was a paralegal. Elizabeth Owen was a secretary.

3. Mary O'Donnell, Meghan O'Donnell, Helen Wahl, and Gerald Wahl are relatives of Pierce O'Donnell.

4. Anita Latinovic, Jacqueline Folsom, Russell Folsom, Raphael Valasco, Johnny Rodriguez, Christina Andujo, and Mayela Saucedo are relatives or friends of the O'Donnell & Mortimer LLP employees referenced in Paragraph IV.2.

5. Senator John Edwards was a candidate for President of the United States in the Democratic primaries for the 2004 election.

6. Edwards for President and Julius Chambers in his official capacity as treasurer (the "Edwards Committee") was Senator John Edwards's authorized committee, as set forth in 2 U.S.C. § 431(6).

Law

7. 2 U.S.C. § 441f prohibits: (1) making a contribution in the name of another; (2) knowingly permitting one's name to be used to effect such a contribution; and (3) knowingly accepting such a contribution. In addition, no person may knowingly help or assist any person in making a contribution in the name of another. 2 U.S.C. § 441f; 11 C.F.R.

¹ In mid-2006, O'Donnell & Mortimer LLP and its assets were acquired by a large national law firm. Pierce O'Donnell left with an assistant and a paralegal to establish O'Donnell & Associates PC, which presently employs an assistant and a second year associate.

§ 110.4(b)(1)(iii). This prohibition also applies to any person who provides the money to others to effect contributions in their names. 11 C.F.R. § 110.4(b)(2).

Facts

8. Pierce O'Donnell agreed to host a fundraising breakfast for Senator John Edwards's presidential campaign. Using law firm stationery, O'Donnell sent invitations to approximately 50 individuals. The fundraiser took place on March 1, 2003 at the Peninsula Hotel in Los Angeles, California. O'Donnell recalls making a commitment to raise \$50,000 by March 31, 2003, for the Edwards Committee. After O'Donnell agreed to raise funds, the Edwards Committee sent him a package which contained donor cards and legal compliance information, including a written warning that the law prohibited reimbursed contributions.

9. O'Donnell knew that the law placed limits on the amount of individual contributions to federal candidates and knew that the law prohibited reimbursing federal campaign contributions. Pierce O'Donnell had prior experience raising funds for federal candidates. O'Donnell himself was previously a candidate for the House of Representatives, and he also served on the national finance committee of Bill Clinton's 1992 and 1996 presidential campaigns.

10. In mid-March 2003, O'Donnell asked Dolores Valdez, his secretary and personal assistant, to approach both attorneys and non-lawyer employees at O'Donnell & Mortimer to solicit contributions to the Edwards Committee. At O'Donnell's instruction, Valdez told the non-lawyer employees that O'Donnell would reimburse them and anyone they recruited for their contributions. Attorneys at the law firm were not offered reimbursement. This followed a similar pattern to a previous reimbursement scheme in 2000. In 2000, O'Donnell had also held

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a fundraiser for a Los Angeles mayoral candidate, James Hahn, at the law firm, and he subsequently reimbursed contributions to the Hahn campaign in a similar fashion to the reimbursements at issue in this matter. O'Donnell pleaded no contest to five counts of using a false name to make campaign contributions to settle criminal charges in Los Angeles related to the Hahn reimbursements. O'Donnell settled civil charges with the Los Angeles City Ethics Commission and the California Fair Political Practices Commission related to the Hahn reimbursements, and was penalized with a fine and probation.

11. Dolores Valdez approached five non-lawyer employees of the firm that agreed to make, and/or recruit others to make, reimbursed contributions to the Edwards Committee. The non-lawyer employees were Else Latinovic, Hilda Escobar, Bert Rodriguez, Harry Silberman, and Elizabeth Owen. Valdez did not make a contribution in her own name.

(a) In addition to her own \$2,000 contribution, Else Latinovic solicited her mother, Anita Latinovic, and family friends, Jacqueline Folsom and Russell Folsom to make \$2,000 contributions to the Edwards Committee. O'Donnell gave Else Latinovic an \$8,000 check to reimburse the contributions made by her, Anita Latinovic, Jacqueline Folsom, and Russell Folsom.

(b) In addition to her own \$2,000 contribution, Hilda Escobar solicited her father, Raphael Valasco, to contribute \$2,000 to the Edwards Committee. O'Donnell gave Hilda Escobar a \$4,000 check to reimburse the contributions made by her and Raphael Valasco.

(c) In addition to his own \$2,000 contribution, Bert Rodriguez solicited his son, Johnny Rodriguez, and his son's girlfriend, Christina Andujo, to each contribute \$2,000 to the Edwards Committee. O'Donnell gave Bert Rodriguez a \$4,000 check to reimburse the

contributions made by Johnny Rodriguez and Christina Andujo. Dolores Valdez reimbursed Bert Rodriguez for his contribution out of a check O'Donnell gave to Ms. Valdez.

(d) O'Donnell gave Harry Silberman and Elizabeth Owen each \$2,000 checks to reimburse their contributions.

(e) Dolores Valdez solicited her sister, Maria Saucedo, to contribute \$2,000 to the Edwards Committee. O'Donnell gave Valdez a \$4,000 check to reimburse her sister's contribution as well as Bert Rodriguez's contribution.

12. In addition to soliciting and reimbursing non-lawyer employees of his law firm through Ms. Valdez, O'Donnell directly asked family members to contribute \$2,000 to the Edwards Committee that he would reimburse. Mary O'Donnell, Meghan O'Donnell, Helen Wahl, and Gerald Wahl are all members of O'Donnell's family that made contributions in the amount of \$2,000 each to the Edwards Committee and were reimbursed by Pierce O'Donnell.

13. O'Donnell himself contributed \$2,000 to the Edwards Committee.

14. O'Donnell and 34 other individuals associated with him contributed approximately \$50,000 to the Edwards Committee. O'Donnell reimbursed 16 of these individuals for contributions totaling \$32,000, though two of these contributions (totaling \$4,000) were apparently not received by the Edwards Committee.

15. In 2008, O'Donnell was indicted for three felony violations of federal campaign law. After a jury trial and lengthy appellate process, in August 2011, O'Donnell entered a guilty plea to two misdemeanor violations of federal campaign laws and was sentenced to two months in federal prison and four months in a halfway house.

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16. O'Donnell's license to practice law in California was suspended for several months while he served out his sentence for these criminal convictions, and remains suspended at this time. Respondent contends that his criminal indictment, convictions and the suspension of his California law license have negatively impacted his law practice, which is his sole source of income. Respondent also contends that he has been diagnosed with medical conditions that make it difficult to work, and that his law firm is not presently generating any income.

17. In June 2011, O'Donnell separated from his wife of 16 years and began divorce and child custody proceedings that he contends were contentious and costly.

18. Respondent contends that he has accumulated substantial legal and other debts related to his criminal and divorce proceedings that remain outstanding, and he has provided documentation to support his claims about his financial circumstances.

19. Under penalty of perjury, Respondent declares that the contributions enumerated herein are the only federal contributions that he reimbursed or attempted to reimburse, and that the information contained in this Agreement regarding those contributions and describing his current financial circumstances is complete and accurate.

V. Respondent knowingly and willfully violated 2 U.S.C. § 441f by making contributions in the names of others.

VI. In ordinary circumstances, the Commission would seek a civil penalty based on the violations outlined in this agreement as well as mitigating circumstances. However, based upon representations made by O'Donnell, including the submission of a sworn affidavit and financial documentation detailing the dissolution of his assets, the Commission is taking into

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account the fact that O'Donnell has considerable outstanding debts, no current income and no reasonable expectation of income that would enable him to pay a civil penalty in the foreseeable future. The Commission regards these submissions and representations as material representations. Due to the mitigating circumstances presented by O'Donnell's financial condition, the Commission agrees that no civil penalty will be due. If evidence is uncovered indicating O'Donnell's financial circumstances are not as stated in his affidavit and documentation, a total civil penalty of two hundred and seventy-two thousand dollars (\$272,000) shall be immediately due, pursuant to 2 U.S.C. § 437g(a)(5)(B).

VII. Respondent will cease and desist from violating 2 U.S.C. § 441f.

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

X. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

12-7-12

Date

Anthony Herman
General Counsel


BY: 

Daniel A. Petalas
Associate General Counsel for Enforcement

FOR THE RESPONDENT:

11-19-12

Date



Pierce O'Donnell

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